

The background of the slide features a large, stylized American flag in the upper left corner, with its stars and stripes flowing across the top. The rest of the background is a solid blue color with a subtle grid pattern and several small, dark blue squares scattered on the right side.

SUPPORTING THE WARFIGHTER
THROUGH BUSINESS
TRANSFORMATION

ACQUISITION with INTEGRITY



May 23-26, 2005



Discussion

The Law

Darleen Druyun Pleadings

Result of Pleadings - GAO Protests

The Department's Response:

- GAO Protests

- Defense Science Board Task Force

- Multi-Service/Agency Review

Current Status



The Law

18 U.S.C. 207 and 18 U.S.C. 208

Prohibits former employees and their supervisors from representing non-government entities concerning matters they handled while working for the federal government. Violation entails criminal penalties. Includes statutory conflict of interest provisions.

41 U.S.C. 423

Narrowly applies to contracting officials and also entails civil and administrative penalties. The provision generally restricts employment with a contractor if the official performed certain functions involving the contractor and a contract valued in excess of \$10M.

The law permits employees to accept compensation "from any division or affiliate of a contractor that does not produce the same or similar products or services" that were produced under the contract."



The Regulations

Subpart 3.1—Safeguards

3.101 Standards of conduct.

3.101-1 General.

Government business shall be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none. Transactions relating to the expenditure of public funds require the highest degree of public trust and an impeccable standard of conduct. The general rule is to avoid strictly any conflict of interest or even the appearance of a conflict of interest in Government-contractor relationships. While many Federal laws and regulations place restrictions on the actions of Government personnel, their official conduct must, in addition, be such that they would have no reluctance to make a full public disclosure of their actions.



The Law - Now

- **Joint Ethics Regulations (JER)**
 - DEPSECDEF now requires:
 - All DoD employees to file public financial disclosure reports (SF278);
 - All certify awareness of post-Government employment restrictions; and
 - All certify they have not violated them
- **USD(AT&L) issued memo October 22, 2004**
 - Mandatory, New On-Line Ethics Training Course, complete by the end of 2005
 - Emphasizes the highest standards of integrity are expected of the Acquisition Workforce



Druyun's Pleadings, October 2004

- Darleen Druyun, Principal Deputy Assistant Secretary of the Air Force from 1993 to 2002
- Failed a polygraph test during a law enforcement investigation
 - Post Employment Violation 18 U.S.C. 208 (Personal Financial Interest)
 - Followed by October 2004 Post-Plea Admissions in Federal Court, citing bias re:
 - KC 767 A Tanker Aircraft
 - NATO AWACS
 - C-130 AMP
 - C-17 H-22 clause



Druyun's Pleadings, Implicated Boeing Employee

Michael Sears convicted of a
violation under 18 U.S.C. 208

The Government expects
objectivity and integrity of
decisions made by a government
official

Sears and Druyun colluded for
personal gain



Druyun Tenure in the Air Force

Facts:

Long tenure

Recognized expert in program
management and contracting

Unsupervised for long periods, due to
protracted confirmation process

(47 months out of 118 month tenure)

Accumulated great deal of authority and
autonomy

Few questioned her



GAO Protests

- Protests were originally submitted to the Department of the Air Force
 - Three contractors protested
 - Lockheed Martin, BAE, and L3Communications
- The Air Force, in conjunction with USD(AT&L), determined that the protests should be decided by GAO. The contractors agreed.
- GAO protests cover two programs:
 - Small Diameter Bomb
 - C-130 Avionics Modernization Program (AMP)



GAO Protests, To date

GAO SUSTAINED BOTH PROTESTED AWARDS

- Recommended Air Force Re-Compete both
 - Small Diameter Bomb (SDB)
 - C-130 AMP
- Deferred an additional post-employment issue regarding Lockheed Martin which surfaced during review of SDB
- Air Force concurred with SDB recommendations
- Air Force concurred on competing installation of C-130 AMP. Other issues under review.



Additional Actions Taken by the Department:

USD(AT&L) directed:

- Defense Science Board Task Force
 - To assess our structure and methods of oversight to ensure the integrity of acquisition decisions in the Department.
- Multi-Service/Agency Contract Review
 - Review of acquisition actions executed or influenced by Darleen Druyun during her tenure as the Principal Deputy Assistant Secretary of the Air Force (Acquisition)



Results of DSB Review

Report Issued May 6, 2005

- Available on DSB Website
- **Recommends immediate changes to processes and oversight**
 - Written recommendations by advisory bodies to source selection authority (SSA)
 - Ensure distribution of delegated responsibilities for major procurements
 - Oversight, source selection, and contract negotiation should not all reside in one person
 - Provide many avenues for voicing concerns
 - Environment does not support critical self assessment
 - ID and share best practices
 - Develop and periodically review metrics roll-up on senior acquisition leaders



Results of DSB Review, cont'd

- **Recommends enduring changes in cultivating leadership and people**
 - Put ethics at the forefront of Department communications
 - Institutionalize an orientation program for OSD incoming leadership which addresses:
 - Values and objectives of DoD and the Secretary
 - Importance of leadership to sustain an ethical culture
 - Performance expectations tied to both above.
 - Fill high level positions quicker
 - SES performance management lags best practices



Results of Multi-Service Agency Review

- The team consisted of 40 members from Navy (7), Army (4), DCMA (23), DCAA (5), and GSA (1)
- Identified over 400 contract actions
- Reviewed nearly 8,000 documents
 - Fifteen (15) contracts highlighted as anomalies, eight new ones (not already under investigation by USG)
- USD(AT&L) referred the eight new ones to DoD IG on February 11, 2005



Other Actions Taken

USD(AT&L) Directs Ethics Training for all Acquisition Community, November 2004

- Mandatory Completion by December 2005

USD(AT&L) Issued Four Memos

- 360° Leader Review, February 25, 2005
 - DAU evaluated feedback from Department
 - Recommends use, but not part of formal performance evaluation process



Other Actions Taken

- **Acquisition Integrity, March 1, 2005**
 - Required policy prepared for USD(AT&L)'s review on oversight, source selection, negotiations, & contract award
 - Not all respondents followed direction
 - Forward your policy or supply links to PAIC
 - PAIC review is in process
- **Ethics and Integrity, March 1, 2005**
 - To the entire Acquisition Workforce
 - Insists on the highest integrity from our workforce and from Industry partners
- **Acquisition Integrity and Ethics, March 22, 2005**
 - Leaders must put ethics at the forefront
 - Results aren't more important than ethics



Acquisition Integrity means:

Demanding ethical behavior

Demanding transparency in the system (open to review)

Examining your processes and people

- Do they enforce checks and balances?
- Do you have appropriate safeguards in place?

Examine your culture and leadership

- Do they demand the highest ethical values?
- Perform Periodic Assessments
- Expand orientation programs, ethics training
- It's never OK to break the rules

Talk and Walk Acquisition Integrity

- It starts at the top